

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Crosby & Overton, Inc.
1630 West 17th Street
Long Beach, California 90813

EPA ID No. CAD028049019
Respondent.

Docket HWCA 2005-0877

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Crosby & Overton, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1. Respondent is a permitted onsite and offsite RCRA and Non-RCRA hazardous waste storage, treatment and transfer facility located at 1630 West 17th Street, Long Beach, California 90813 (Site).
2. The Department conducted an Enhanced Inspection of the Site on June 28, 2005, a follow-up inspection on October 5, 2005, and a Compliance Evaluation Inspection on January 24-26, 2006.
3. Based on these inspections, the Department alleges the following violations:
 - 3.1. Respondent violated California Health and Safety Code, Section 25202(a) and its Hazardous Waste Facility Permit (HWFP) in that on or about June 28, 2005, Respondent failed to remove a tank from service that was leaking. On or about January 24-26, 2006, Respondent also failed to remove from service a leaking pipe.

3.2. Respondent violated California Code of Regulations, title 22, section 66264.175(b) (1) in that on or about June 28, 2005, Respondent failed to have a containment system impervious to releases.

3.3. Respondent violated California Code of Regulations, title 22, section 66262.11(a) in that on or about June 28, 2005, Respondent failed to properly classify a hazardous waste. Specifically, Respondent declared as empty a total of nine drums that contained a mixture of solvents and paints.

3.4. Respondent violated California Health and Safety Code section 25160(b)(1) in that on or about October 5, 2005, Respondent failed to prepare a hazardous waste manifest prior to transporting hazardous wastes on a public street by forklift.

3.5. Respondent violated California Health and Safety Code section 25202(a) and part III B.1 of its HWFP in that on or about January 24-26, 2006, Respondent failed to store hazardous waste, a caustic drum, in the designated storage area.

3.6. Respondent violated California Health and Safety Code section 25202(a) and Part VIII.D.3.c.4 of its HWFP in that on or about January 24-26, 2006, Respondent failed to conduct and record the ignitability tests for two hazardous waste tanks in the inspection logs.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the violations described above, except as follows: Respondent admits the facts underlying the violations alleged above for the purposes of any subsequent action whether criminal, civil or administrative including but not limited to, any actions to deny, suspend or revoke a permit, transporter registration or any other grant of authority issued by the Department brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., or its implementing regulations within three (3) years from the date the alleged violations occurred.

SCHEDULE FOR COMPLIANCE

10. Respondent has demonstrated that the violations alleged in Sections 3.1 through 3.7 have been corrected. No further corrective action or submittal is required, except as set forth below:

10.1. In addition, Respondent shall:

10.1.1. Within 30 days of the effective date of this Order, identify the replacement unit for the "Lectro Clear System", a piece of equipment that removes impurities, such as metals and trace oils from water, with an equivalent unit of the same type and capacity. Respondent shall have the new system certified by a registered professional engineer. Said certification shall include the secondary containment. At least thirty (30) days prior to replacing the "Lectro Clear System". Respondent shall submit the proposed drawings and specifications to the Department. Respondent shall further submit as-built drawings, specifications and the engineering certification to the Department's Permitting & Corrective Action Branch located in Glendale, California, within sixty (60) days after the installation is complete.

10.1.2. Immediately comply with the requirements of Health and Safety Code section 25200.19 when loading and unloading hazardous wastes in the Equipment Storage Area, a.k.a., "Parking Lot". Hazardous wastes shall not be

staged or held off any transport vehicle or outside any authorized unit, except for the incidental time needed to safely and effectively move wastes from the designated storage units onto and off of the transport vehicles.

10.1.3. Within ninety (90) days of the effective date of this Order replace the old paint can crusher with an equivalent unit of the same type and capacity. The new unit shall not have any greater capacity than the existing unit. Prior to the replacement of these units, Respondent shall submit to the Department the drawings and specifications for the proposed replacement units for the Department's review.

10.1.4. Within thirty days of the effective date of this Order, notify the Department of the proposed replacement of the existing obsolete carbon vessel, known as Tank CA-30, with an equivalent unit of the same type and capacity. Respondent shall provide the Department with all required certifications for the tank including the secondary containment from a California registered professional engineer. Respondent shall submit the as-built drawings and specifications to the Department's Permitting and Corrective Action Branch located in Glendale, California within thirty days after the installation is complete. The new tank shall not be used by Respondent until the certifications are submitted and approved by the Southern California Permitting and Corrective Action Branch located in Glendale California.

10.1.5. Within 15 days of the effective date of this Order revise and submit the inspection forms to be consistent with the operations. Respondent shall submit copies of the inspection forms to the Department's Permitting and Corrective Action Branch located in Glendale, California.

10.1.6. Respondent may replace forklifts with an equivalent appropriately sized make or model.

10.1.7. The HWFP, Part B, Page 6, is amended as follows: In addition to using kiln dust, Respondent may use select sorb or other equivalent absorbent material that meet the requirements of California Code of Regulations, title 22, section 66264.314 for absorbing liquids,

10.1.8. Respondent may store hazardous wastes with combined D001 and D002 waste codes in the ignitable waste area, Drum Storage Areas 7 and 8. Respondent shall revise Table EVI-1 in the Part B Permit Operations Plan to reflect this correction and submit the revision within 30 days of the effective date of this order to the Southern California Permitting and Corrective Action Branch.

10.1.9. Submittals: All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Yvonne Sanchez, Chief
Cypress Branch
Statewide Compliance Division
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

And

Juan Manuel Jimenez
Unit Chief
San Diego Border Unit
Statewide Compliance Division
Department of Toxic Substances Control
9174 Sky Park Court, Suite 150
San Diego, California 92123

And

Jose Kou, Chief
Southern California Permitting & Corrective Action Branch
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, CA 91201

10.2. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.3. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.4. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.5. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.6. Site Access: Access to the Site shall be permitted during normal business hours to employees, contractors, and consultants of the

Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

10.7. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

10.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or

omissions by Respondent or related parties specified in paragraph 10.1.1 through 10.1.9 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

10.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

10.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

PAYMENTS

11. Respondent shall pay the Department the total sum of \$35,240.00 in two installments. The payments are further defined as follows: \$ 13,000 in administrative costs, \$ 5,000.00 credit for Respondent sending two or more staff to Compliance School within 180 days of the effective date of this Order, and \$ 17, 240.00 is a penalty. The Certificates of Compliance for attendance of Compliance School must be submitted within 180 days of the effective date of this Order. The first payment is due within 30 days of the effective date of this Order and the second payment is due within 60 days of the effective date of this Order.

11.1. Respondent's check shall be made payable to Department of Toxic Substances Control, shall include the Docket Number HWCA 2005-0877 and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Yvonne Sanchez, Chief
Cypress Branch
Statewide Compliance Division
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

And

Juan Jimenez, Chief
San Diego Border Unit
Statewide Compliance Division
Department of Toxic Substances Control
9174 Sky Park Court, Suite 150
San Diego, California 92123

11.3. If Respondent fails to submit the Certificate of Satisfactory Completion as required and specified in paragraph 11 of this Order, a penalty of \$ 5,000.00 is due and payable within thirty (30) days after the expiration of the 180 day period allowed for completion of the course and submittal of the Certificate.

11.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12.0. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

12.1. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.2. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

12.3. Effective Date: The effective date of this Order is the date it is signed by the Department.

12.4. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: July 27, 2006

Original Signed by Mr. Ron Daerr
Ron Daerr
Environmental Compliance Manager
Crosby & Overton, Inc.

Dated: July 27, 2006

Original Signed by Mr. Juan M. Jimenez
Juan Manuel Jimenez, Chief
San Diego Border Unit
Statewide Compliance Division
Department of Toxic Substances Control